



Virginia
Regulatory
Town Hall

Periodic Review and Retention of Existing Regulations Agency Background Document

Agency Name:	State Water Control Board
VAC Chapter Number:	9 VAC 25-230
Regulation Title:	Procedural Rule No. 1 – Public and Formal Hearing Procedures
Action Title:	Periodic Review
Date:	July 19, 2001

This information is required pursuant to the Administrative Process Act § 9-6.14:25, Executive Order Twenty-Five (98), and Executive Order Fifty-Eight (99) which outline procedures for periodic review of regulations of agencies within the executive branch. Each existing regulation is to be reviewed at least once every three years and measured against the specific public health, safety, and welfare goals assigned by agencies during the promulgation process.

This form should be used where the agency is planning to retain an existing regulation.

Summary

Please provide a brief summary of the regulation. There is no need to state each provision; instead give a general description of the regulation and alert the reader to its subject matter and intent.

Procedural Rule No. 1 sets for the administrative procedures to be followed by the State Water Control Board (Board) and the Department of Environmental Quality (DEQ) staff for the conduct of public and formal hearings. The primary purpose of this rule is to coordinate hearing requirements of the State Water Control Law and other DEQ regulations with the Administrative Process Act.

Procedural requirements for hearings that apply to the Board, DEQ, the regulated community and to citizens, are found in numerous places – the State Water Control Law, the Administrative Process Act, and the following regulations – VPDES Permit Program, VPA Permit Program, VWP Permit Program, Surface Water Management Area Permit Program and Ground Water Withdrawal Permit Program.

Procedural Rule No. 1 contains definitive statements as to the process for requesting hearings, the requirements for hearings, notification of decisions and for the actual conduct of the hearing. The procedures deal primarily with hearings related to case decisions for the issuance, denial, modification or revocation of permits.

The rule does not supplant, revoke or amend any provisions of the State Water Control Law, the APA, or any of the permit regulations; rather, they supplement them by coordinating the requirements for administrative hearing procedures. Additionally, these procedures assure that all requests for public hearings are handled consistently and treated equally and fairly.

Basis

Please identify the state and/or federal source of legal authority for the regulation. The discussion of this authority should include a description of its scope and the extent to which the authority is mandatory or discretionary. Where applicable, explain where the regulation exceeds the minimum requirements of the state and/or federal mandate.

State or federal law does not mandate procedural Rule No. 1. It is however, considered essential to the welfare of the citizens of the Commonwealth and for the efficient and economical performance of the public hearing process.

Public Comment

Please summarize all public comment received as the result of the Notice of Periodic Review published in the Virginia Register and provide the agency response. Where applicable, describe critical issues or particular areas of concern in the regulation. Also please indicate if an informal advisory group was formed for purposes of assisting in the periodic review.

No public comment was received as a result of the Notice of Periodic Review.

Effectiveness

Please provide a description of the specific and measurable goals of the regulation. Detail the effectiveness of the regulation in achieving such goals and the specific reasons the agency has determined that the regulation is essential to protect the health, safety or welfare of citizens. Please assess the regulation's impact on the institution of the family and family stability. In addition, please indicate whether the regulation is clearly written and easily understandable by the individuals and entities affected.

The goal of the rule is to ensure that all requests for public hearings are handled consistently and treated equally and fairly. The rule is essential to protect the health, safety or welfare of citizens in that it sets forth consistent procedures for public and formal hearings which allows for better public participation in the various permitting processes which is beneficial to the citizens and the environment.

The rule is written in basic, nontechnical language and is easily understood by the general public and clearly states the requirements placed on DEQ and the public.

Alternatives

Please describe the specific alternatives for achieving the purpose of the existing regulation that have been considered as a part of the periodic review process. This description should include an explanation of why such alternatives were rejected and this regulation reflects the least burdensome alternative available for achieving the purpose of the regulation.

While the procedures contained in this rule are essential to the efficient operation of the State Water Control Board, the procedures could possibly be established through guidance. However, the guarantees of consistency resulting from the rule can not be achieved other than by regulation. Citizens have come to expect those guarantees making a non-regulatory alternative unacceptable.

Recommendation

Please state that the agency is recommending that the regulation should stay in effect without change.

DEQ is recommending that the regulation be retained without change. An internal work group is currently studying the feasibility of a single regulation that could be adopted by each of the three regulatory boards that would conform the procedures for public and formal hearings, as much as the various statutes and federal regulations will allow, amongst the different media and permitting programs. Initiating amendments and/or repeal of this rule at this time are premature. Regulatory action, if necessary, will be initiated after the internal work group has completed its work.

Family Impact Statement

Please provide an analysis of the regulation's impact on the institution of the family and family stability including the extent to which it: 1) strengthens or erodes the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourages or discourages economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthens or erodes the marital commitment; and 4) increases or decreases disposable family income.

This procedural rule has no direct impact on the institution of the family and family stability.